
HOUSE BILL 2938

State of Washington 60th Legislature 2008 Regular Session

By Representatives Simpson, Schindler, Wood, Hankins, and VanDeWege

Read first time 01/18/08. Referred to Committee on Local Government.

1 AN ACT Relating to clarifying annexation procedures between cities
2 and fire districts; amending RCW 35.02.210, 36.70A.110, 36.115.070, and
3 35.13.270; adding a new section to chapter 35.02 RCW; adding a new
4 section to chapter 35.13 RCW; adding a new section to chapter 35A.14
5 RCW; and repealing RCW 35.02.190, 35.02.200, 35.02.202, 35.02.205,
6 35A.14.380, and 35A.14.400.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 35.02 RCW
9 to read as follows:

10 A city or town incorporating under this chapter shall, prior to the
11 effective date of the incorporation, enter into a service agreement
12 with each fire protection district whose boundaries will be changed by
13 the incorporation. The service agreement shall address the transfer of
14 revenues and assets between the fire district and the city or town
15 taking into consideration the impact of the incorporation on the
16 ability of the fire protection district to maintain existing levels of
17 service in the portions of the fire protection district outside of the
18 incorporation area and the impact on the provision of fire protection
19 and emergency medical services within the incorporation area.

1 In the event an agreement is not entered into prior to the
2 effective date of the incorporation, then until such time as a service
3 agreement is entered into:

4 (1) The fire district shall continue to provide service to the
5 annexed area;

6 (2) The tax levy transfer provisions of RCW 35.13.270(2)(a) are
7 suspended; and

8 (3) At the time the city or town property taxes are levied on the
9 annexed properties, the city or town shall pay to the fire protection
10 district, on a quarterly basis, an amount equal to what the fire
11 district would have received in tax and/or benefit charge revenues if
12 the property had not been removed from the district.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 35.13 RCW
14 to read as follows:

15 A city or town annexing property under this chapter shall, prior to
16 the effective date of the annexation, enter into a service agreement
17 with each fire protection district whose boundaries will be changed by
18 the annexation. The service agreement shall address the transfer of
19 revenues and assets between the fire district and the city or town
20 taking into consideration the impact of the annexation on the ability
21 of the fire protection district to maintain existing levels of service
22 in the portions of the fire protection district outside of the
23 annexation area and the impact on the provision of fire protection and
24 emergency medical services within the annexation area.

25 In the event an agreement is not entered into prior to the
26 effective date of the annexation, then until such time as a service
27 agreement is entered into:

28 (1) The fire district shall continue to provide service to the
29 annexed area;

30 (2) The tax levy transfer provisions of RCW 35.13.270(2)(a) are
31 suspended; and

32 (3) At the time the city or town property taxes are levied on the
33 annexed properties, the city or town shall pay to the fire protection
34 district, on a quarterly basis, an amount equal to what the fire
35 district would have received in tax and/or benefit charge revenues if
36 the property had not been removed from the district.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 35A.14 RCW
2 to read as follows:

3 A city annexing property under this chapter shall, prior to the
4 effective date of the annexation, enter into a service agreement with
5 each fire protection district whose boundaries will be changed by the
6 annexation. The service agreement shall address the transfer of
7 revenues and assets between the fire district and the city taking into
8 consideration the impact of the annexation on the ability of the fire
9 protection district to maintain existing levels of service in the
10 portions of the fire protection district outside of the annexation area
11 and the impact on the provision of fire protection and emergency
12 medical services within the annexation area.

13 In the event an agreement is not entered into prior to the
14 effective date of the annexation, then until such time as a service
15 agreement is entered into:

16 (1) The fire district shall continue to provide service to the
17 annexed area;

18 (2) The tax levy transfer provisions of RCW 35.13.270(2)(a) are
19 suspended; and

20 (3) At such time as the city property taxes are levied on the
21 annexed properties, the city shall pay to the fire protection district,
22 on a quarterly basis, an amount equal to what the fire district would
23 have received in tax and/or benefit charge revenues if the property had
24 not been removed from the district.

25 **Sec. 4.** RCW 35.02.210 and 1991 c 360 s 8 are each amended to read
26 as follows:

27 At the option of the governing body of a newly incorporated city or
28 town, any (~~fire protection district or~~) library district serving any
29 part of the area so incorporated shall continue to provide services to
30 such area until the city or town receives its own property tax
31 receipts.

32 **Sec. 5.** RCW 36.70A.110 and 2004 c 206 s 1 are each amended to read
33 as follows:

34 (1) Each county that is required or chooses to plan under RCW
35 36.70A.040 shall designate an urban growth area or areas within which
36 urban growth shall be encouraged and outside of which growth can occur

1 only if it is not urban in nature. Each city that is located in such
2 a county shall be included within an urban growth area. An urban
3 growth area may include more than a single city. An urban growth area
4 may include territory that is located outside of a city only if such
5 territory already is characterized by urban growth whether or not the
6 urban growth area includes a city, or is adjacent to territory already
7 characterized by urban growth, or is a designated new fully contained
8 community as defined by RCW 36.70A.350.

9 (2) Based upon the growth management population projection made for
10 the county by the office of financial management, the county and each
11 city within the county shall include areas and densities sufficient to
12 permit the urban growth that is projected to occur in the county or
13 city for the succeeding twenty-year period, except for those urban
14 growth areas contained totally within a national historical reserve.

15 Each urban growth area shall permit urban densities and shall
16 include greenbelt and open space areas. In the case of urban growth
17 areas contained totally within a national historical reserve, the city
18 may restrict densities, intensities, and forms of urban growth as
19 determined to be necessary and appropriate to protect the physical,
20 cultural, or historic integrity of the reserve. An urban growth area
21 determination may include a reasonable land market supply factor and
22 shall permit a range of urban densities and uses. In determining this
23 market factor, cities and counties may consider local circumstances.
24 Cities and counties have discretion in their comprehensive plans to
25 make many choices about accommodating growth.

26 Within one year of July 1, 1990, each county that as of June 1,
27 1991, was required or chose to plan under RCW 36.70A.040, shall begin
28 consulting with each city located within its boundaries and each city
29 shall propose the location of an urban growth area. Within sixty days
30 of the date the county legislative authority of a county adopts its
31 resolution of intention or of certification by the office of financial
32 management, all other counties that are required or choose to plan
33 under RCW 36.70A.040 shall begin this consultation with each city
34 located within its boundaries. The county shall attempt to reach
35 agreement with each city on the location of an urban growth area within
36 which the city is located. If such an agreement is not reached with
37 each city located within the urban growth area, the county shall
38 justify in writing why it so designated the area an urban growth area.

1 A city may object formally with the department over the designation of
2 the urban growth area within which it is located. Where appropriate,
3 the department shall attempt to resolve the conflicts, including the
4 use of mediation services.

5 (3) Urban growth should be located first in areas already
6 characterized by urban growth that have adequate existing public
7 facility and service capacities to serve such development, second in
8 areas already characterized by urban growth that will be served
9 adequately by a combination of both existing public facilities and
10 services and any additional needed public facilities and services that
11 are provided by either public or private sources, and third in the
12 remaining portions of the urban growth areas. Urban growth may also be
13 located in designated new fully contained communities as defined by RCW
14 36.70A.350.

15 (4) In general, cities and fire protection districts are the units
16 of local government most appropriate to provide urban governmental
17 services. In general, it is not appropriate that urban governmental
18 services be extended to or expanded in rural areas except in those
19 limited circumstances shown to be necessary to protect basic public
20 health and safety and the environment and when such services are
21 financially supportable at rural densities and do not permit urban
22 development.

23 (5) On or before October 1, 1993, each county that was initially
24 required to plan under RCW 36.70A.040(1) shall adopt development
25 regulations designating interim urban growth areas under this chapter.
26 Within three years and three months of the date the county legislative
27 authority of a county adopts its resolution of intention or of
28 certification by the office of financial management, all other counties
29 that are required or choose to plan under RCW 36.70A.040 shall adopt
30 development regulations designating interim urban growth areas under
31 this chapter. Adoption of the interim urban growth areas may only
32 occur after public notice; public hearing; and compliance with the
33 state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110.
34 Such action may be appealed to the appropriate growth management
35 hearings board under RCW 36.70A.280. Final urban growth areas shall be
36 adopted at the time of comprehensive plan adoption under this chapter.

37 (6) Each county shall include designations of urban growth areas in
38 its comprehensive plan.

1 (7) An urban growth area designated in accordance with this section
2 may include within its boundaries urban service areas or potential
3 annexation areas designated for specific cities or towns within the
4 county.

5 **Sec. 6.** RCW 36.115.070 and 1994 c 266 s 7 are each amended to read
6 as follows:

7 It is the intent of the legislature to permit the creation of a
8 flexible process to establish service agreements and to recognize that
9 local governments possess broad authority to shape a variety of
10 government service agreements to meet their local needs and
11 circumstances. However, it is noted that in general, cities and fire
12 protection districts are the unit of local government most appropriate
13 to provide urban governmental services and counties are the unit of
14 local government most appropriate to provide regional governmental
15 services.

16 The process to establish service agreements should assure that all
17 directly affected local governments, and Indian tribes at their option,
18 are allowed to be heard on issues relevant to them.

19 **Sec. 7.** RCW 35.13.270 and 2007 c 285 s 1 are each amended to read
20 as follows:

21 (1) Whenever any territory is annexed to a city or town which is
22 part of a road district of the county and road district taxes have been
23 levied but not collected on any property within the annexed territory,
24 the same shall when collected by the county treasurer be paid to the
25 city or town and by the city or town placed in the city or town street
26 fund; except that road district taxes that are delinquent before the
27 date of annexation shall be paid to the county and placed in the county
28 road fund.

29 (2) When territory that is part of a fire district is annexed to a
30 city or town, the following apply:

31 (a) Except under sections 1 through 3 of this act, fire district
32 taxes on annexed property that were levied, but not collected, and were
33 not delinquent at the time of the annexation shall, when collected, be
34 paid to the annexing city or town at times required by the county, but
35 no less frequently than by July 10th for collections through June 30th

1 and January 10th for collections through December 31st following the
2 annexation; and

3 (b) Fire district taxes on annexed property that were levied, but
4 not collected, and were delinquent at the time of the annexation and
5 the pro rata share of the current year levy budgeted for general
6 obligation debt, when collected, shall be paid to the fire district.

7 (3) When territory that is part of a library district is annexed to
8 a city or town, the following apply:

9 (a) Library district taxes on annexed property that were levied,
10 but not collected, and were not delinquent at the time of the
11 annexation shall, when collected, be paid to the annexing city or town
12 at times required by the county, but no less frequently than by July
13 10th for collections through June 30th and January 10th for collections
14 through December 31st following the annexation; and

15 (b) Library district taxes on annexed property that were levied,
16 but not collected, and were delinquent at the time of the annexation
17 and the pro rata share of the current year levy budgeted for general
18 obligation debt, when collected, shall be paid to the library district.

19 (4) Subsections (1) through (3) of this section do not apply to any
20 special assessments due in behalf of such property.

21 (5) If a city or town annexes property within a fire district or
22 library district while any general obligation bond secured by the
23 taxing authority of the district is outstanding, the bonded
24 indebtedness of the fire district or library district remains an
25 obligation of the taxable property annexed as if the annexation had not
26 occurred.

27 (6) The city or town is required to provide notification, by
28 certified mail, that includes a list of annexed parcel numbers, to the
29 county treasurer and assessor, and to the fire district and library
30 district, as appropriate, at least thirty days before the effective
31 date of the annexation. The county treasurer is only required to remit
32 to the city or town those road taxes, fire district taxes, and library
33 district taxes collected thirty days or more after receipt of the
34 notification.

35 (7)(a) In counties that do not have a boundary review board, the
36 city or town shall provide notification to the fire district or library
37 district of the jurisdiction's resolution approving the annexation.
38 The notification required under this subsection must:

1 (i) Be made by certified mail within seven days of the resolution
2 approving the annexation; and

3 (ii) Include a description of the annexed area.

4 (b) In counties that have a boundary review board, the city or town
5 shall provide notification of the proposed annexation to the fire
6 district or library district simultaneously when notice of the proposed
7 annexation is provided by the jurisdiction to the boundary review board
8 under RCW 36.93.090.

9 (8) The provisions of this section regarding (a) the transfer of
10 fire and library district property taxes and (b) city and town
11 notifications to fire and library districts do not apply if the city or
12 town has been annexed to and is within the fire or library district
13 when the city or town approves a resolution to annex unincorporated
14 county territory.

15 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each
16 repealed:

17 (1) RCW 35.02.190 (Annexation/incorporation of fire protection
18 district--Transfer of assets when at least sixty percent of assessed
19 valuation is annexed or incorporated in city or town) and 1993 c 262 s
20 3, 1989 c 76 s 2, 1986 c 234 s 18, 1981 c 332 s 5, & 1965 c 7 s
21 35.13.247;

22 (2) RCW 35.02.200 (Annexation/incorporation of fire protection
23 district--Ownership of assets of fire protection district--When less
24 than sixty percent) and 1997 c 245 s 2;

25 (3) RCW 35.02.202 (Annexation/incorporation of fire protection
26 district--Delay of transfer) and 1991 c 360 s 7;

27 (4) RCW 35.02.205 (Annexation/incorporation of fire protection
28 district--Distribution of assets of district when less than five
29 percent of district annexed--Distribution agreement--Arbitration) and
30 1993 c 262 s 4 & 1989 c 267 s 3;

31 (5) RCW 35A.14.380 (Ownership of assets of fire protection
32 district--Assumption of responsibility of fire protection--When at
33 least sixty percent of assessed valuation is annexed or incorporated in
34 code city) and 1981 c 332 s 8 & 1967 ex.s. c 119 s 35A.14.380; and

35 (6) RCW 35A.14.400 (Ownership of assets of fire protection
36 district--When less than sixty percent of assessed valuation is annexed

1 or incorporated in code city) and 1989 c 267 s 2 & 1967 ex.s. c 119 s
2 35A.14.400.

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